
(2010) 08 GUJ CK 0203

In the Gujarat High Court

Case No : Special Civil Application No. 24390 of 2005

ST Corporation

APPELLANT

Vs

Gopalbhai Punjabhai Gohil

RESPONDENT

Date of Decision : 11-08-2010

Acts Referred:

Citation : (2010) 08 GUJ CK 0203

Hon'ble Judges : K. S. Jhaveri, J

Bench : Single Bench

Advocate : Sejal K. Mandavia, for the Appellant; Bharat Jani, for the Respondent

Final Decision : Allowed

Judgement

K.S. Jhaveri, J.—By way of this petition, the petitioner has prayed to quash and set aside the judgment and award passed by the Industrial Tribunal, Rajkot in Reference (IT) No. 82/1993 dated 01.03.2005, whereby, the order of punishment dated 13.01.1988 passed by the petitioner-Corporation was set aside and it was directed that the respondent shall not be entitled for the difference of amount on account of the setting aside of the order of punishment.

2. The facts in brief are that the respondent was charge-sheeted for disciplinary proceedings in connection with a misconduct that was allegedly committed on 23.02.1985 where the respondent had misused the bus of the petitioner-Corporation. Ultimately, the disciplinary authority imposed the punishment of dismissal from service, vide order dated 28.08.1985. First and second appeals filed before the appellate authorities of the petitioner-Corporation came to be rejected.

3. Therefore, the respondent raised a dispute, which was referred to the Industrial Tribunal, Rajkot for adjudication. The Tribunal, after hearing both the sides, partly allowed the reference by way of the impugned award. Hence, this petition.

4. Heard learned Counsel for the respective parties and perused the documents on record. The alleged misconduct that the Bus was allowed to be driven by the Conductor was established beyond doubt. Apart from that the respondent had raised the dispute after about five years from the date of his dismissal. Looking to the facts of the case and the default card of the respondent, wherein, a total number of 17 defaults have been mentioned, the Tribunal ought to have imposed some penalty on the respondent while setting aside the order of dismissal.

5. In my opinion, if the penalty of stoppage of Three Increments with future effect is imposed on the respondent, the same would meet with the ends of justice. Orders accordingly. The penalty to come into force w.e.f. 13.03.1988. The impugned award stands modified accordingly. This order to be implemented within a period of six months from today. The petition stands disposed of accordingly. Rule is made absolute to the above extent with no order as to costs.